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Book Review: Canadian Immigration Law, by David Matas

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Canadian Immigration Law.

By DAVID MATAS.

Ottawa: Canadian Bar Association. 1986. Pp. iv, 69. (Free of charge)

Reviewed by William H. Angus*

Perhaps the best person to review this short paperback would have been someone who knows nothing whatsoever, or at least very little, about

¹⁴ P. 357.

¹⁵ P. 358.

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immigration law. The work is expressly directed to the lawyer in general practice who has an occasional immigration question, and it may be of some use to a lay person. It endeavours to simplify and demystify what is admittedly a very complex field of statutory law in order to make the area accessible to all in the spirit of public legal education.¹ Anyone who has endeavoured to achieve this objective in any area of the law will understand how difficult is the task. Fortunately, the author has largely succeeded in this instance.

After a somewhat rambling introduction, there follow chapters on how to enter, how to stay in, how to survive in and how to leave Canada. A brief conclusion rounds out the work. All in all, this basic organization of the material is a pragmatic and sensible approach to the subject matter in the circumstances.

For its relatively small size, the book has a number of strengths. From time to time, arguments based on the Canadian Charter of Rights and Freedoms² are anticipated and briefly discussed. Some other rather difficult legal issues are considered with admirable clarity, such as whether the person concerned is a genuine immigrant or a "parent of carriage". Policy considerations are injected into the discussion quite frequently, particularly with respect to refugees, but also on matters such as visa exemptions, delay in issuing visas, and the 1982 economic immigrant freeze when occupational demand was artificially set at zero.

Like almost any new work, there are a few weaknesses which should be addressed before a second edition is published. On the topic of entering Canada as an immigrant, the author leads off with refugees, and follows with families and economic immigrants. It seems somewhat unfortunate that such prominent treatment is given to refugees as immigrants when currently the public has difficulty in distinguishing between the two groups and treating each on its own merits. Furthermore, the last sentence of the introduction to refugees as immigrants states that "Canada is not a country of first asylum".³ It is immediately followed by a new sub-heading: "Canada as a Country of First Asylum"—surely a stark contradiction and confusing to beginners and experienced alike. In the same section on refugees as immigrants, the sub-heading "Non-Governmental Organizations" is followed by an opening sentence which bears no relation to the heading. Indeed, much of the material under this sub-heading relates only very indirectly to non-governmental organizations. This section on refugees as immigrants is the weakest portion of the book. Later treatment of the inland refugee claims procedure and

¹ Law Union of Ontario, *The Immigrant's Handbook: A Critical Guide* (1981), was an earlier effort to achieve similar objectives, but it is now substantially outdated.

² Constitution Act, 1982, Part 1.

³ P. 17.

tips for the refugee on how to survive in Canada are much better, although the part on claims procedure is now redundant in light of the enactment in 1988 of the amendments to the Immigration Act, 1976.⁴

Section numbers of the Immigration Act⁵ are rarely referred to by the author, which certainly makes the text more readable. Footnotes are nonexistent. Similarly, case names are not employed, although there are occasional references to and brief discussions of unnamed cases. For example, the author's consideration of misrepresentation as a ground for removal from Canada maintains that a two-fold test has been imposed by the Supreme Court of Canada, presumably in the *Brooks* decision,⁶ requiring not only that further inquiries by immigration officials are foreclosed by the misrepresentation, but also that there be *prima facie* proof that the person concerned is in a prohibited class. The author argues that the second part of this test has been dropped by decision-makers up to and including the Immigration Appeal Board, while the Federal Court has not been definitive on the issue. It is equally arguable, however, that the *Brooks* case does not require a second part to the test, and that the Federal Court of Appeal has applied the first part by itself on numerous occasions.⁷ Unfortunately, the introductory nature of this small book permits only a superficial examination of this and other significant issues.

Given the enactment of the 1988 amendments to the Immigration Act,⁸ substantial portions of the book under review have been rendered obsolete. A second edition of this useful little volume is necessary. This will provide an opportunity for editorial correction of minor errors and improvements in form. Nevertheless, the idea for, and execution of, this brief introductory work is to be commended.

⁴ S.C. 1986-87-88, c.35 and 36.

⁵ Immigration Act, 1976, S.C. 1976-77, c. 52 as am.

⁶ *Min. of Manpower and Immigration v. Brooks*, [1974] S.C.R. 850, (1973), 36 D.L.R. (3d) 522.

⁷ See *Litas v. Min. of Manpower and Immigration*, [1975] F.C. 242, (1975), 57 D.L.R. (3d) 304 (C.A.); *Hilario v. Min. of Manpower and Immigration*, [1978] 1 F.C. 697, (1977), 18 N.R. 529 (C.A.), among many others, but these cases have not specifically addressed the argument of the author. This reviewer happens to agree with the author on the merits.

⁸ *Supra*, footnote 4.